

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

TOMAS ZEA REYES,

Defendant.

Case No. CR 06-5005 FDB

ORDER DENYING MOTION TO  
POSTPONE (STAY) SENTENCING

This matter comes before the Court on Defendant Reyes' Motion to postpone (stay) sentencing pending resolution of his pro se interlocutory appeal of the denial of motion to withdraw his guilty plea. After considering the pleadings filed by the parties, the Court is fully informed and hereby denies the motion to stay sentencing.

The proper time to challenge an order denying a motion to withdraw a plea of guilty is after sentencing when the decision is final. United States v. Gottlieb, 817 F.2d 475, 476 (8<sup>th</sup> Cir. 1987). See also Midland Asphalt Corp. v. United States, 489 U.S. 794, 798-99 (1989) (stating that, in criminal cases, 28 U.S.C. § 1291 limits the jurisdiction of courts of appeals to final decisions of the district court "after conviction and imposition of sentence"); Abney v. United States, 431 U.S. 651

1 (1977) (noting the primacy of the final judgment rule governing appeals in criminal cases).

2 Defendant has failed to establish a basis for a stay of sentencing.

3 There has been a withdraw and substitution of new defense counsel to represent Defendant  
4 Reyes in these proceedings. Sentencing is set for February 22, 2008.


5 ACCORDINGLY;

6 IT IS ORDERED:

7 Defendant Tomas Reyes' Motion to Postpone (Stay) Sentencing [Dkt # 116] is **DENIED**.

8 DATED this 1<sup>st</sup> day of February, 2008.

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

  
FRANKLIN D. BURGESS  
UNITED STATES DISTRICT JUDGE